Supreme Court, U.S.
FILED
3
03 930 AUG 12 2003

135

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

APPENDIX 1

TABLE OF CONTENTS
APPENDIX 1

Exhibit A – Plaintiff's Counter Defends Answer to Defendant's Motion for Summary Judgment.....page 137, 138, 140
Exhibit A1 – Plaintiff's Affidavit in Opposition for Motion for Summary Judgment.....page 140
Exhibit D – Affidavit of Michael Wilenchik, Notary.....page 142
Exhibit B – Affidavit of Patricia Ard, Defendant.....page 144
Exhibit B1 – Affidavit of George Kiledas, Defendant's Father.....page 147
Exhibit C – Plaintiff's Motion for Reconsideration.....page 141, 149
Exhibit E – Motion for Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Rise of Witnesses and Coincidence by the Defendant.....page 152
Exhibit F – Motion for Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by Defendant.....page 154
Exhibit G – Plaintiff's Motion for Rule 11 Sanctions Oral Argument Requested.....page 156
Exhibit H – Plaintiff States Style of Case is Incorrect and the Correct Legal Style of the Case Should Be As Shown in This Pleading.....page 162
Exhibit I – Plaintiff's Response to Defendant not for Oral Argument for Summary Judgment on June 20, 2002 Should be Denied and Continued at a Later Date.....page 164
Exhibit ROL– Notice of Removal of Contract Lien.....page 166
Exhibit T3 – Complaint File Notes by the Arizona State Department of Insurance.....page 169
Exhibit C1 Senate Bill 1016.....page 174
Exhibit SC Minute Entry.....page 176
Exhibit SJH Transcript Proceedings.....page 179

EXHIBIT A

PEORIA JUSTICE COURT
7420 w. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of
AZ, Inc., an Arizona Corp.
IRWIN GARY ROBERTS,
Counter Defendant
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard
11768 W. Larkspur Dr.
El Mirage, AZ 85335

CV2002-017209

PLAINTIFF'S/COUNTER DEFENDANT'S ANSWER TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Counter Defendant, in response to the Defendant's Motion for Summary Judgment allege as follows:

Defendant's first count for summary judgment alleges consumer fraud based upon the fact that the Plaintiff allegedly told the defendant and her father (George Klidas) that he was a licensed Arizona attorney. The Plaintiff and Irwin Gary Roberts deny that Patricia Ard or her father were ever told that Irwin Gary Roberts was a licenses Arizona attorney. The affidavit of Irwin Gary Roberts is attached hereto as Exhibit A. Attached is Affidavit of Michael Wilenchik Exhibit D

Defendant's second count for summary judgment alleges slander per se. Truth is a defense to any action for slander. Plaintiff believes that the statements be made regarding Patricia Ard are

not slanderous, are true and will prove them in court. See Exhibit A attached hereto.

Defendant's third count for summary judgment asks for Rule 11 Sanctions because Plaintiff filed a lien for alleged third party representation. The plaintiff did not file a lien for third party representation. The lien filed was for work done pursuant a contract for investigation to see if there was any third party coverage. No claim was ever made by the plaintiff for third party representation. See Exhibit A attached hereto.

Defendant's fourth count for summary judgment alleges an invalid Lien in violation of A.R.S. 33-420. This statute only applies to liens against real property. The lien filed by the plaintiff in this case was only against the proceeds of the defendant's settlement. Which the defendant agreed to when she signed the plaintiff's contract. There was no lien filed against the defendant's real property. Defendant has misrepresented this lien to the court as she has done in almost every other matter throughout this case.

Defendant's fifth claim that the plaintiff's contract is invalid because it violated the unauthorized practice of law in Arizona is spurious and also has no merit. The court can take judicial knowledge of the fact that there is no unauthorized practice of law statute in Arizona and therefore there is no basis for this claim. The Defendant in this case deliberately misrepresented the law in citing the Creasy case. The Creasy case holding only applies to disbarred lawyers. It does not apply to other individuals and the Arizona Supreme Court stated this in the Creasy options.

Defendant's final claim that the contract was voidable because it was allegedly procured by fraud is also not true. Neither the defendant nor her father was ever told that Irwin Gary Roberts was a licensed Arizona attorney. See Exhibit A.

A summary judgment can only be granted by the court when there is no issue of fact to be determined at trial. In this case every claim brought by the defendant in her motion for summary judgment has an issue that can only be determined after a trial or it has no basis in law to be granted. All the defendant's claims for summary judgment must by law be denied.
Dated June 10, 2002

Irwin Gary Roberts

Copy mailed to defendant Attorney on June 10, 2002.

Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington St., 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts
Copy hand delivered to Court
Hon. Lex Anderson

EXHIBIT A1

STATE OF ARIZONA)
) SS:
COUNTY OF MARICOPA)

AFFIDAVIT IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

Before me the undersigned notary public, personally appeared Irwin Gary Roberts, who upon being duly sworn deposes and says:

My name is Irwin Gary Roberts.

I am president of Accident Assistance Centers of Arizona, Inc., an Arizona corporation and the plaintiff in Case No. CV01-02761RA.

At no time did I ever tell Patricia Ard or George Klidas that I was a licensed Arizona attorney nor did I ever tell either of them that I ever took cases to court and won them all. I told them I was a licensed adjuster in Arizona.

I specifically told both Patricia Ard and George Klidas that I was a licensed as an adjuster to settle personal injury claims in Arizona and that I charged less than most attorneys do to settle cases.

I did not slander Patricia Ard and any statements that I did make about her I believed at the time to be true and still believe them to be true today.

I did not file a client for third party representation against Patricia Ard. I filed a lien for investigating to determine if there was any third party coverage.

The lien I filed against Patricia Ard was only a client against the proceed of any money she would collect from the insurance company as she authorized me to do in the signed contract. The lien was not a lien against her real property. I did not even know she owned any real property. Exhibit C Enclosed

That there is no legal prohibition in Arizona that would prohibit me from settling third party claims with insurance companies as an individual . This has been stated as the current state of the law in Arizona the Arizona Attorney General" office. See the p[art of the transcript enclosed as Exhibit B.

Dated: June 10, 2002

IRWIN GARY ROBERTS
SWORN T0 AND SUBSCRIBED
before me this 10 day of June, 2002
My commission expires:

Notary Public

Irwin Gary Roberts
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020
Pro Per

EXHIBIT D

IN THE PEORIA JUSTICE COURT IN THE STATE OF ARIZONA, COUNTY OF MARICOPA

ACCIDENT ASSISTANCE CENTERS)
CASE NO. CV1-0276RA
OF ARIZONA)
AFFIDAVIT OF
)
MICHAEL WILENCHIK
Plaintiff)
)
vs.)
)
PATRICIA ARD)
)
Defendant)
)

Michael Wilenchik, being first duly sworn under oath and under penalty of perjury, says her is over 18 years of age and he is fully competent and that he is under no legal restriction to state the following:

My name is Michael Wilenchik.

I am a licensed notary public in the state of Arizona.

On or about January 24, 2001 I was with Irwin Gary Roberts and Patricia Ard in Furr's cafeteria in Sun City, AZ.

Before I notarized the contract with Accident Assistance Centers of Arizona Inc., Mr. Roberts explained the terms of the contract to Patricia Ard and told her he was a licensed pubic adjuster, that he settled personal injury claims, and he was not licensed to practice law in the State of Arizona.

I notarized the following documents for Patricia Ard, the contract, consent for medical and the power of attorney.

Dated this 10 day of June, 2002

Subscribed and sworn to me before this 10 day of June 2002.

My Commission expires

Notary Public

EXHIBIT B

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
Attorneys for Defendant Patricia Ard

IN THE PEORIA JUSTICE COURT
IN THE STATE OF ARIZONA, COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISSTANCE CENTER OF AZ, INC.

Plaintiff,

vs.

PATRICIA ARD,
Defendant

No. CV-01-02761RA

AFFIDAVIT OF PATRICIA ARD

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

PATRICIA ARD, being first duly sworn under oath and under penalty of perjury says that she is over 18 years of age, that she is fully competent, that the following Affidavit is based on her personal knowledge, and that she is under no legal restriction to state the following:

My name is Patricia Ard, and I am the Defendant in the above-referenced matter.

On or about January 16, 2001, I was involved in an automobile accident.

Within a few days after the accident, my father, George Klidas, gave me Gary Roberts' business card, a copy of which is attached hereto as Exhibit A.

My father told me he met Mr. Roberts at Casino Arizona, and that Mr. Roberts had told my father he was an attorney.

I noticed the "Scales of Justice" on the business card, and understood that to mean that Mr. Roberts was an attorney.

Based upon the information contained in the business card, and Mr. Roberts' statements to my father, I called the number listed on the card and spoke with Mr. Roberts over the phone, while my father sat with me, listening to my end of the conversation.

During the initial telephone conversation, Mr. Roberts told me he was an attorney, that he settled most of his cases out of court, and of the cases he took to court, he won.

I made an appointment with Mr. Roberts to meet with my father and me at my house.

During the meeting at my house, Mr. Roberts told my father and me that if he decided to take the case, neither my husband nor my father could be involved in the lawsuit, because I was the one who had had the car accident.

Mr. Robert's insisted on meeting with me alone to sign the paperwork.

On or about January 24, 2001, I met Mr. Roberts at Furr's Cafeteria to sign the paperwork, which included a contract, a Special Power of Attorney, and a Consent and Medical Information Authorization, copies of which are attached hereto as Exhibit B.

After I had signed the paperwork, Mr. Roberts advised me that if anybody asked me any information about my car accident, I should tell them to contact my attorney (meaning Mr. Roberts.

Dated this 18 day of February, 2002.

PATRICIA ARD

SUBSCRIBED AND SWORN TO before me this 18th day of February, 2002.

Notary Public

My Commission Expires:

EXHIBIT B1

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
Attorneys for Defendant Patricia Ard

IN THE PEORIA JUSTICE COURT
IN THE STATE OF ARIZONA, COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba| No. CV-01-02761RA
ACCIDENT ASSISSTANCE CENTER OF AZ, INC.,

AFFIDAVIT OF GEORGE KLIDAS

Plaintiff,
vs.
PATRICIA ARD,
Defendant

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

GEORGE KLIDAS, being first duly sworn under oath and under penalty of perjury says that he is over 18 years of age, that he is fully competent, that the following Affidavit is based on his personal knowledge, and that he is under no legal restriction to state the following:

My name is George Klidas, and I am the father of the Defendant in the above-referenced matter.

I met Gary Roberts some time in November, 2000, while I was working at Casino Arizona.

Mr. Roberts came into the casino, he gave me his business card and told me that he was an attorney, and asked me to pass on his business card to anybody who needed an attorney.

While Patricia was in the hospital recovering from an automobile accident that occurred on January 16, 2001, I told Patricia's husband, Jerry Ard, that I knew an attorney named Gary Roberts, and that I had met Mr. Roberts at Casino Arizona.

I was with my daughter, Patricia, during her initial telephone conversation with Mr. Roberts, and when Mr. Roberts met with Patricia in her home.

During the meeting at Patricia's house, Mr. Robert's told Patricia and me that if he decided to take the case, neither Patricia's husband nor I could be involved in the lawsuit.

Mr. Roberts insisted on meeting alone with Patricia to sign the paperwork.

Dated this 18 day of February , 2002.

GEORGE KLIDAS

SUBSCRIBED AND SWORN TO before me this 18th day of February, 2002.

Notary Public

My Commission Expires:

EXHIBIT C

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of	Defendant: Patricia Ard
AZ, Inc., an Arizona Corp.	CV2002-017209
IRWIN GARY ROBERTS, Counter Defendant	
5629 S. Sailors Reef Rd.	11768 W. Larkspur
Tempe, AZ 85283	El Mirage AZ 85335
(480) 491-4020	

PLAINTIFFS' MOTION FOR RECONSIDERATIOIN
ORAL ARGUMENT REQUESTED

Plaintiffs, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Counter Defendant, hereby request that the Court reconsider its ruling granting summary judgment to the defendant on all counts as grounds therefore alleges:

The law regarding when a summary judgment may be granted by the court is clear and unambiguous:

There are three requirements that must be met before a summary judgment may be granted. First, there can be no genuine dispute as to any material facts. Second, only one inference can be drawn from the undisputed facts. Third, that based solely upon the undisputed facts, the moving party is entitled to a judgment as a matter of law.

Dutell Inns of America, Inc. vs. Horizon Corp., 18 AZ App. 116 (1972).

In a summary judgment proceeding, the court does not try the issues of fact, but only determines whether or not there are any genuine issues of fact. Yavapai County vs. Wilkenson, 111 Ariz. 530 (1975).

On a motion for summary judgment, the litigants are entitled to a trial if there are any genuine issues of fact. City of Phoenix vs. Space Data Corp, 111 Ariz. 528 (1975).

Minimal evidence in the affidavit of the party opposing the summary judgment showing there is a material factual, issue entitles the party opposing the affidavit to a trial. Gibbons vs. Glove Development, Nevada, Inc., 113 Ariz. 394 (1976).

In a summary judgment proceeding, the court must construe the pleadings and the evidence most favorably to the party opposing the summary judgment,. Savonu Masonary Co. Inc, vs. Homes and Sons Construction Co. In., 112 Ariz. 392

There is no dispute as to what the law says regarding what the court should consider in making a decision on a motion for summary judgment. The court in this case clearly either misunderstood or misapplied the law. The plaintiffs in their response, under oath, disputed a material fact in every count that the defendant alleged in support of her motion for summary judgment necessary for the defendant to prevail.

There is absolutely no legal way if this court follows the law that this court could grant the defendant's motion for summary judgment as to all counts. To do so is to totally

disregard the law and the facts in this case as it relates to summary judgments in Arizona.

Even the defendant's counsel cannot dispute what the law is in regard to summary judgments as stated above. Defendant's counsel also cannot say in good faith that the plaintiffs did not dispute a material fact in each count of the defendant's motion. Defendant's counsel has an ethical obligation under the Rules of Professional Conduct to inform the court of the correct law as it applies to a case even if it is contrary to their client's own interest.

The court should do what is just and proper in this case by granting the plaintiffs' motion for reconsideration, denying the defendant's motion for summary judgment and setting this matter for trial. To do otherwise, is it deliberately and willfully ignore the undisputed law of this state that judges are duty bound to follow.

WHEREFORE, the plaintiffs respectfully request that this court grant their motion for reconsideration.

Dated: June -26, 2002.
Irwin Gary Roberts
Copy mailed to defendant's Attorney on June 26, 2002.
Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington St., 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts
Faxed to Court 623-979-3234
Mailed to Court - 7420 W. Cactus Rd.
Peoria, AZ 85381
Peoria Justice Court

EXHIBIT E

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard
11768 W. Larkspur
El Mirage AZ 85335

MOTION FOR ENTRY OF JUDGMENT, TO DISMISS COUNTERCLAIM AND TO PROHIBIT THE USE OF WITNESSES AND EVIDENCE BY THE DEFENDANT

Plaintiff, IRWIN GARY ROBERTS files this Motion For Entry of Judgment, To Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by the Defendant in this matter as grounds therefore alleges:

The Defendant was required to file her Disclosure Statement on or before the 22nd day of November, forty days after the filing of her answer on October 12, 2001. It is now December 10, 2001 and the Defendant still has not filed her disclosure statement even though she acknowledged through her attorney that she received a copy of the Plaintiff's Disclosure Statement approximately two weeks ago.

During the time that the Disclosure Statement was due, the Defendant and her attorneys have filed numerous motions, researched other cases the Plaintiff has been involved in over the years, sent letters to the Plaintiff and have talked to him on the phone. They have no valid excuse for not timely filing their Disclosure Statement.

WHEREFORE, plaintiff respectfully requests that the Court enter a judgment for the Plaintiff, dismiss the Defendant's Counterclaim and prohibit the Defendant from calling any witnesses or introducing any evidence on the Plaintiff's claim because of her deliberate neglect in failing to file a Disclosure Statement as ordered by this court.

Dated: December 10, 2001.

Irwin Gary Roberts

EXHIBIT F
PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard
11768 W. Larkspur
El Mirage AZ 85335

MOTION FOR ENTRY OF JUDGEMENT, TO DISMISS COUNTERCLAIM AND TO PROHIBIT THE USE OF WITNESSES AND EVIDENCE BY THE DEFENDANT

Plaintiff, Irwin Gary Roberts, files this Motion For Entry of Judgment, to Dismiss Counterclaim and to Prohibit the Use of Witnesses and Evidence by the Defendant in this matter and as grounds therefore alleges:

The Defendant was delinquent in filing her Disclosure Statement on December 10, 2001 and the Plaintiff brought it to the Court's attention at that time. (exhibit A)

Five months have passed since it was brought to the Court's attention and the Defendant has not filed a Disclosure Statement. There is absolutely no excuse for defendant's failure to file her disclosure Statement.

WHEREFORE, Plaintiff respectfully requests that the Court enter a judgment for the Plaintiff, dismiss the Defendant's Counterclaim and prohibit the defendant from calling any witnesses or introducing any evidence on

the Plaintiff's claim because of her deliberate neglect in failing to file a Disclosure Statement as ordered by this court.

Dated: May 8, 2002.

Irwin Gary Roberts

Copy mailed to Defendant's Attorney on May 8, 2002, and a copy hand-delivered to the Judge.

Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Floor
201 E. Washington Street
Phoenix, AZ 85004

Irwin Gary Roberts

EXHIBIT G

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 84381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of	Defendant: Patricia Ard
AZ, Inc., an Arizona Corp.	CV2002-017209
IRWIN GARY ROBERTS,	
Counter Defendant	
5629 S. Sailors Reef Rd.	11768 W. Larkspur
Tempe, AZ 85283	El Mirage AZ 85335
(480) 491-4020	

PLAINTIFF'S MOTION FOR RULE 11 SANCTIONS
ORAL ARGUMENT REQUESTED

Plaintiffs, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Court Defendant, hereby request that Rule 11 Sanctions be imposed on the defendant and her counsel for their misconduct in this case and as grounds there allege:

STATEMENT OF FACTS

This action was commenced when Accident Assistance Center of Arizona, Inc. filed a small claims action against Patricia Ard. Patricia Ard, had settled a previous accident claim on her own behalf, but she had been unable to find the party who ran into her in a subsequent accident to see if he had insurance so she could collect from her own insurance company on her uninsured motorist coverage. Her father told her about the plaintiff. The first time the defendant met with

the plaintiff, she refused the Plaintiff's services because she did not want to pay $125.00 per hour for the investigation required to be done by the plaintiff to initiate the first party claim She finally retained Accident Assistance Center of Arizona, Inc. to do an investigation to find the party who hit her in this newest accident so she could proceed with her first party claim against her own insurance company. She signed a contract with Accident Assistance Center, Inc. agreeing to pay $125.00 an hour for investigation time because she was unable to get this information after weeks of trying herself. Thereafter, the plaintiff set out to get the information so that first party claim could be processed.

Accident Assistance Center of Arizona, Inc. spent approximately sixteen hours investigating and was finally able to locate the party who had injured the defendant in this most recent accident. Accident Assistance Center of Arizona, Inc. filed notices with the defendant's own insurance carrier putting them on notice as to the first party claim. Subsequently, the plaintiff also found out that there was third party coverage and that the defendant did not have any uninsured motorist coverage. When the plaintiff told the defendant how much time and money had been expended in finding the party and subsequently discovering that there was third party coverage, Patricia Ard said she would not pay that amount she agreed to pay the plaintiff to investigate the first party claim. She further told that plaintiff that if the plaintiff did not agree to waive this investigation fee she would fire the plaintiff and cause the plaintiff a lot of trouble by telling everyone that he said he was a lawyer.

The Plaintiff refused to waive this fee because the plaintiff has done this work on the first party claim at the defendant's request and pursuant to the contract signed by the defendant. The plaintiff was lawfully permitted to do this investigation and receive a fee for doing so under A.R.S. 32-401 and 20-

321. Even Judge Albrecht in her minute entry stated the plaintiff was authorized to do first party claims. As a result of the plaintiff's refusal to waive its investigation fee, the defendant fired the plaintiff and wrote letters to everyone she could wrongfully accusing him of lying to her and deliberately trying to damage his personal and business reputation. Thereafter, the plaintiff, Irwin Gary Roberts, not Accident Assistance Center of Arizona, Inc., sued Patricia Ard individually for defamation in the civil division of the Justice Court because the defendant deliberately lied about what he had said in a effort to forgo a fee that Accident Assistance center of Arizona, Inc. was legally entitled to receive and that the defendant had contractually agreed to pay. These were two separate cases with two separate plaintiffs in two separate divisions of the Justice Court with one common defendant.

The defendant then moved to consolidate the two cases because although there were two separate plaintiffs, there was one common defendant and some common facts in both cases. In an effort to speed this matter along, both Accident Assistance Center of Arizona, Inc. and Irwin Gary Roberts, the two separate plaintiffs agreed to the consolidation. It was at this time that the defendant's counsel deliberately changed the style of the case without any valid or legal reason for doing so which mislead the court into believing that there was only one plaintiff and because the value of the two separate claims combined exceed $10,000, the Court no longer had jurisdiction of the case. The defendant's counsel did this by changing the style of the case to read "Irwin Gary Roberts dba Accident Assistance Center of Arizona, Inc." This deliberate act by counsel for the give any other valid reason for doing this either. This misstatement of the correct plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reasonable conclusion

give any other valid reason for doing this either. This misstatement of the correct plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reasonable conclusion drawn but that this was done in bad faith and therefore subject to the sanctions of Rule 11.

The defendant also committed other Rule 11 Violations in this case for the sole purpose of harassing the plaintiffs and misleading the court. The defendant has alleged in her pleadings that the plaintiff has committed the "unauthorized practice of law" when in fact there is no "unauthorized practice of law" statute in Arizona. This allegation was made without foundation merely to harass the plaintiff. Even the Attorney General admitted there is no unauthorized practice of law statute in Arizona that would prohibit the plaintiff individually from doing third party claims.

The defendant's counsel filed a claim against the plaintiff for allegedly filing a lien against her real property. The lien clearly says that it is a lien only against the proceeds of any insurance settlement. There is no legal description in the lien. This is just another example of the defendant's counsel misleading the court in an effort to harass the plaintiff.

Additionally, the plaintiff misrepresented the investigation the plaintiff did for the defendant in this case. The plaintiff had the right under law to investigate to gather the necessary information needed to file a first party claim, which is what he did in this case. The defendant's counsel kept deliberately misleading the court by stating that the plaintiff's claim in this matter is for investigating a third party claim.

MEMORANDUM IN SUPPORT OF MOTION FOR RULE 11 SANCTIONS

Rule 11 requires every person filing a pleading to make a reasonable investigation to determine that the pleading is filed in good faith, not for the purposes of delay, harassment or to drive up the costs of litigation. The pleadings filed by the defendant's counsel as outlined above clearly violated these provisions of Rule 11. If an honest mistake is made, a party would correct it as soon as possible. The plaintiff in this case notified the defendant's counsel about the correct legal status of the plaintiffs, but the defendant's counsel deliberately failed to correct it even though defendant's counsel knew it was wrong. This shows clear intent of a deliberate violation of Rule 11.

All of the other actions of misconduct as stated above are also evidence of deliberate and calculated pattern of misconduct in a manner to harass and intimidate the plaintiff as well. This pattern of deliberate misconduct is clear proof of the Rule 11 violations. The transcript of the defendant's counsel comments at the motion for summary judgment proving this misconduct has been ordered by the plaintiff and will be furnished to the court as soon as it is transcribed from the court tape which the court also has a copy of .

WHEREFORE, the plaintiff respectfully requests that this court send a clear message to the defendant and her counsel that this kind of unethical conduct will not be tolerated by this court. Appropriate sanctions should be significant fines, reimbursement to the plaintiff of all time and expenses attributed to this misconduct and striking of the defendant's pleadings.

Dated: June 25, 2002

Irwin Gary Roberts

Copy mailed to defendant's Attorney on June 25, 2002.

Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington Street 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts

Exhibit H

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
201 W. Jefferson, Phoenix, Arizona 85003

CIV# 2002 217209
New CIV # 2002-107209

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard

11768 W. Larkspur
El Mirage AZ 85335

The Plaintiff states the style of the case is incorrect and the correct legal style of the case should be as shown in this pleading.

The Plaintiff informed the Justice Court of the error with copies to Defense Counsel on many occasions and wants to bring it to the attention of the Superior Court.

The Plaintiff on numerous occasions in his pleading, which can be found in the appellate file, requested the Justice Court to correct the legal style of this case, with copies to Defense, to no avail.

The Plaintiff requests this Court to straighten out the error in the legal style of this case because it also has an effect on who is liable, which is one of the issues which is on appeal in this case.

Date: September 11, 2002.

Irwin Gary Roberts

Copies mailed to: 9/11/02
Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Collier Center, 11th Floor
201 E. Washington St.
Phoenix, AZ 85004

Copy hand-delivered to Judge Michael Jones
201 W. Jefferson, Phoenix, Arizona 85003

Irwin Gary Roberts

EXHIBIT 1

PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 85381 979-3234
Case No. CV01-02761RA

Plaintiff:
IRWIN GARY ROBERTS,
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020

Defendant: Patricia Ard

11768 W. Larkspur
El Mirage AZ 85335

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR ORAL ARGUMENTS FOR SUMMARY JUDGMENT ON JUNE 20, 2002 SHOULD BE DENIED AND CONTINUED AT A LATER DATE

The Counter Defendant is not prepared to argue the Summary Judgment Motion on such short notice as Counter Defendant still has discovery to do and may want to supplement his answer to the Defendant's Motion for Summary Judgment and file a Motion for Summary Judgment on my own behalf.

The Plaintiff cites 19 Arizona App 574 James Wesley Young vs. Douglas L. Peacock and William Appellees Court of Appeals of Arizona Division 1 Department B. May 3, 1973 held the trial court abused its discretion in not granting the requested continuance on Plaintiff's motion for Summary Judgment, where the hearing was premature.

The Counter Defendant respectfully requests this court to deny Defendant's Motion for Summary Judgment and to set oral arguments at a later date.

Respectfully submitted

Dated June 12, 2002
Irwin Gary Roberts

Copy mailed to Defendant's Attorney on June 12, 2002.

Rebecca L. Covell
Jennings, Strouss & Salmon, P.L.C.
The Colllier Center, 11th Floor
201 E. Washington St.
Phoenix, AZ 85004

Irwin Gary Roberts

Copy faxed and mailed to the Court Hon. Lex Anderson

Exhibit ROL

Maricopa County Recorder
2001-014399 - 2/25/2001

NOTICE OF REMOVAL OF CONTRACT LIEN

My client Patricia Jeanne Ard
Address of Client- 11768 W. Larkspur, El Mirage, AZ 85335
Date of Signing this Contract 1/24/2001
Date of Loss 1/16/2001
Amount Due $2,006 - 16 hours at $125 per hour
plus Police Report $6,00
The removal of this lien does not prelude Irwin Gary Roberts from suing Patricia Jeanne Ard in a Civil Court or prejudice Irwin Gary Roberts in any court proceedings currently in progress.
I, Irwin Gary Roberts am the claimant who filed this lien and wish to remove the lien as of December 4, 2001.

Respectfully Yours,

Irwin Gary Roberts
5629 S. Sailors Reef Rd.
Tempe, AZ 85283

U.S.A.A. claim # 78851
Adjuster _____
P.O. Box 35718, Colorado Springs
Colorado, 80935-37

RECORD AS IS

The Defendant Ard waisted the Courts time as to the issue of an invalid lien that Defendant said was put onto real property. The Plaintiff removed the lien December 4, 2001, see Exhibit 16. The Plaintiff was on holiday, see envelope 11/25 Exhibit 17. Plaintiff received notice November 25, 2001. The Plaintiff therefore complied with the law as he removed the lien in 9 days where the law stated it has to be removed in 20 days.

The Defendant never enclosed the written signature when Defendant received registered receipt. Look at time sheet of attorneys for the Defendant as they had notice that written receipt had not come back from a call from Defendant Ard. The Plaintiff submits deed of house that Plaintiff's own Exhibit 18. It states without liens or encumbrances. This was a 1st party claim, see letters to Liberty Mutual, Exhibit 11 & 2. Plaintiff put a lien on the proceeds of the settlement not on the real property, Exhibit 14. The Plaintiff did not violate ARS 33-420, it only applies to real property.

Berenter vs Gallahger 173 H275 839 P2D

The Appeals Court held and adjuster securing the insurance proceeds may be entitled to a lien in the proceeds. So john and Jean Apple Baum Insurance law and practice 334 170 (1970). The Appellate Court said on insured partial assignment of insurance proceeds on independant adjuster representing the insured is valid and enforceable. Home Insurance vs. Gigi Fashions Inc. 267R Supp 958 1967 (D.N.5)

The Court $5. An attorney or an adjuster may be entitled to a lien on the proceeds. The court clearly said an adjuster may file a lien on the proceeds and did not distinguish between 1st and 3rd party claims, see Exhibit 5. The Plaintiff's contract was not void abinitio but valid as the Defendant signed the corporation contract, see Exhibit C. The Plaintiff could file a lien in the proceeds and Plaintiff is entitled to $2006 for reasonable services rendered.

The Defendant committed fraud on this Court and wasted the Courts time as the lien was removed in a timely manner. The Plaintiff did nave the right to file this lien pursuant to the signed signature of the Defendant on the contract of the Defendant. A summary judgment can only be granted by the Court when there is no issue of fact to be determined at trial.

EXHIBIT T3

COMPLAINT FILE NOTES

DATE STAMPED: 6/14/01
CMP NAME: State Bar of AZ by Johansen, Francis
ADDRESS:
PHONE # WORK: 252-4802 HOME:

INVESTIGATOR: Alonzo

CARRIER:
ADDRESS:
PHONE:
CONTACT:

TARGET: Irwin Gary Roberts
ADDRESS:
PHONE:

DATE RECEIVED: 6/18/01

COMPLAINT SUMMARY

Francis Johansen, UPL Attorney for the State Bart of AZ, alleges that adjuster Irwin Gary Roberts is purporting himself to be an attorney in the state of Arizona.

ACTION TAKEN:

6/18/01 Received and processed complaint for setup.

Reviewed documentation supplied by Johansen; noted a "Special Power of Attorney" authorized form signed by Roberts's client Patricia Ard. The heading of the form includes license

numbers for both Roberts and his company, Accident Assistance Centers of AZ. There appears to a page missing form the authorization. The complaint also includes a letter from Roberts to Ard, which clearly shows that he was investigating Ard's claim.

6/20/01 Revised 101 letter typed and mailed to Roberts.

6/22/01 Pc from Roberts; states that he did not adjust the claim in question; states that the clt. Contacted him after the accident and wanted him to investigate the party at fault insurance company. States he investigated as requested and submitted a bill to the clt. States that he made no effort to settle the claim. States is gong on vacation and won't be back until 7/15/01. Response deadline extended to 7/20/01.

7/10/01 Received response for Roberts. States did not adjust a 3rd party claim for Ard___attorney advised him that he could use the tittle, Corporate Counsel on his business card.

8/3/01 Pc to insured's carrier USSA 800 633-0942; spoke to Sherry Brust (CSR) states damages losses have been paid to Ard. Medical has not been settled. Left voice mail message for claim handler Julie Woods (USAA) to call ASAP.

Received call from claim handler Julie Woods; states that although she has documentation that Roberts was representing Ard, she has no direct evidence that would establish that Roberts is negotiated the claim. (no demand letter, etc.)

Woods states that she will fax some documentation as soon as possible.

8/10/01 Received more documentation from USAA; No evidence to establish that Roberts negotiated settlement of Ard's claim.

8/22/01 Pc to Roberts; advised Roberts of need to document that he is aware that it is unlawful to adjust 3rd party claims, and that he agrees to change his business card by deleting """"Corporate Counsel".

9/21/01 PC to Roberts; left message for him to call ASAP.

Return call from Roberts; states that he has been for the past few weeks and will get the info to the ADOI by late next week.

10/18/01 PC to Roberts. Message left on Voice mail.

10/23/01 PC from Roberts; states that he disagrees with ADOI's position relative to adjusting third party claims and has filed a suit against the ADOI for hindering his livelihood and can no longer discuss the matter. When asked to provide copies of all third party claims since September of 2000, Roberts refused and indicated he would only comply by subpoena. E-mailed GLM to advise how to proceed.

Received copy of civil suit which is basically a request for Declaratory Relief.

10/29/01

10/31/01 Reviewed Roberts license file and learned that he was initially licensed in 1990; his license expired after four years and he had to re-apply in 95. No other irregularities found in either file.

11/7/2001 File reviewed by AVS. Awaiting response to subpoena for Roberts 3rd party claim files.

11/8/2001 File reviewed by AVS.

Exhibit

The Director's regulatory bulletin which spawned all these complaints from the AZ State Bar and various insurers does not say that a licensed adjuster can or can not adjust 3rd party claims. It merely spells out what an adjuster is and explains that the statute does not address 3rd party claims. The ADOI's only concern would be what the adjuster represented to the client what his authority is under the license. If the adjuster tells the client that he is licensed to adjust those types of losses, that would be misrepresentation. If the fact that the adjuster is licensed becomes a deciding factor to employ the adjuster to handle a 3rd party claim, this may also be a concern of the ADOI. We do not want anyone to believe that they have the protection of a regulator agency should something go awry with the handling of a 3rd party claim when in fact there is no protection as the ADOI does not license adjusters to handle 3rd party claims.

11/23/01 ADOI response to motion for protective order and injunctive relief.

5/13/2002	Received copy of 5-8-02 minute entry dismissing Robert's case against the ADOI. Reviewed file again. Robert's client actually filed a complaint with the state bar alleging that he represented himself as an attorney and told her that if anyone wanted to talk to her about he claim that she should tell them to contact her attorney. There is no allegation that he misrepresented the authority of his adjuster's license permits him to handle 3rd party claims. Case closed.

CLOSING DATE: **5-13-02**

RECOVERY **0**

EXHIBIT C1

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SENATE BILL 1016

AN ACT

AMENDING SECTION 20-321, ARIZONA REVISED STATUTES; RELATING TO INSURANCE ADJUSTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Mr. Madeksza explained 01st 58 1016 expands the definition of adjuster to mean any person who adjusts, negotiates or Investigates claims arising under an insurance contract, and exempts certain professionals from the definition of adjuster so long so their involvement in the investigation Is technical in nature. Currently the statute refers to adjusters as individuals who investigate and negotiate insurance claims. According to 001, some adjusters attempt to circumvent the intent of the current law by arguing they either investigate or negotiate, but not both, He noted that the bill clarifies that an adjuster either investigates or negotiates or otherwise adjusts insurance settlements. The bill exempts certain professionals who enjoy independent contractor status when providing technical assistance pursuant to a claim. According to DOI, there is no impact to the State's general fund.

Mr. Madeksza explained a Cirillo amendment Is being offered, which adds city and county employees who fulfill adjuster duties on policies held by political

subdivisions in the course of their employment.

Vista Brown, Legislative Liason, DOI, testified in support of SB 1016 and the amendment. She stated that Mr. Madeksza explained the bill and amendment very well. She said DOI brought the bill forward because DOI is experiencing diffeulties in entreement against individuals regarding the "loophole" that was described. She indicated it will be an improvement in the law and assist in DOIs ability to enforce the law.

Senator Cirillo announced the following individuals were present in support of SB 1016: Donald Issacson, Lobbyist, State Farm Insurranee; David Childers, Lobbyist, Farmers Insurance and the National Association of Independent Insurers (NAII); and Gregory Harris, Lobbyist, Progressive Insurance.

Senator Cirillo stated there is no opposition to the bill.

Senator Valsdez stowed SB1016 be returned with a DO PASS recommendation.

Senator Vsladez moved the 6-line Cirillo amendment dated 01/23/02, 2:31 p.m. be ADOPTED (Attachment B). The morion CARRIED by a voice vote.

Senator Valadez moved that SO 1016 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 6-0-0 (Attachment 2),

There being no further business, the meeting adjourned at 1:45 p.na, Respectfully submitted,
Nancy L. DeMichele
Committee Secretary

(Tapes and attachments on File in the Secretary of the Senate's office/Resource Center, Room 115.)

EXHIBIT SC
SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2002-017209 01/03/2003

CLERK OF THE COURT, P. M. Espinoza Deputy

HONORABLE
MICHAEL D. JONES

FILED: 01/07/2003

IRWIN GARY ROBERTS

V.

IRWIN GARY ROBERTS
5629 S SAILOR REEF RD
TEMPE AZ 85283

PATRICIA ARD

DAVID BRNILOVICH

PEORIA JUSTICE COURT

MINUTE ENTRY

The Court has received and reviewed Appellant's Motion to Dismiss Notice of Appeal. IT IS ORDERED granting Appellant's Notice of Appeal to the Court of Appeals.

Date	Matter of Description	Units
10/29/2001	816-203 / Jennings, Strouss & Salmon Pro Bono - Persons of Limited Mesana Ard - Review documents from State Bar; telephone call with Fran Johansen.	0.80
10/30/2001	816-203/Jennings, Strouss Pro Bono - Persons of Limited Means Ard - telephone call with Doug Dunipace; e-mail Management Committee	0.50
11/6/2001	916/203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Roberts v Ard. Research and analyze Arizona caselaw regarding whether Supreme Court has jurisdiction over non-licensed "attorneys" and whether individuals must involved in a judicial proceeding in order to violate the rules (1.6); review and analyze Rule 11 regarding sanctions (4).	2.00
11/7/2001	816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Robert v. Ard. Meet with client and David Brnilovich at Arrowhead office (1.0); travel to and from Arrowhead office. (1.5).	2.50
11/7/2001	816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Ard - Meeting with client and Becky Covell	1.50

11/8/2001	**816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Prepare letter to client; outline scope of work for Becky Covell; review case law for pretrial motions.**	**2.20**
11/12/2001	**816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Roberts v. Ard. Telephone conference with client regarding documents she received from Better Business Bureau and Peoria Justice Court regarding Robert's claim for dafamation of character and breach of contract and mediation papers regarding mediation of December 13, 2001.**	**.10**
11/16/2001	**816-203/Jennings, Strouss & Salmon Pro Bono - Persons of Limited Means Ard - review information from client; e-mail instructions to Becky Covell.**	**.20**

EXHIBIT SJH

IN THE PEORIA JUSTICE COURT
MARICOPA COUNTY

ROBERTS,

Plaintiff,

No. CV01-02761RA vs.

Ard,

Defendant

Peoria, Arizona
June 20, 2002

BEFORE JUSTICE LEX ANDERSON

APPEARANCES:

For the Plaintiff:
Irwin Gary Roberts

For the Defendant:
Rebecca Covell

Also Present:
David Granolidge

TRANSCRIPT OF PROCEEDINGS

Peoria, Arizona
June 20. 2002

(Justice Lex Anderson Presiding)

HEARING:

THE COURT: Let me see who's out there. That's fine. Okay. For the record, this is Docket CV 01-02761RA, Irwin Gary Roberts, d.b.a. Accident Assistance Center of Arizona, Inc., Plaintiff, Patricia Ard, Defendant. And let the record reflect there has been - -

MR. ROBERTS: Your Honor, is the being taped?

THE COURT: I'm sorry?

MR. ROBERTS: Is that the tape? I understand you're going to tape it?

THE COURT: I'm sorry.

MR. ROBERTS: I understand I could have a tape put in for— to tape this hearing?

THE COURT: Mr. Roberts, I might end up - -

MR. ROBERTS: I'm just asking.

THE COURT: It's – everything's taped, okay?

MR. ROBERTS: Well, I didn't know it.

THE COURT: Well, everything is taped, okay?

MR. ROBERTS: All right. Thank you.

THE COURT: The record will show (indiscernible) taped. Okay. So let me continue with —

MR. ROBERTS: I'm sorry; I didn't mean to court

at 201 West Jefferson Street, and a copy of the letter was sent to the justice court and defense counsel. Thus, defense counsel had notice again on March 11th, 2002, and the case came back to the justice court.

Then I mailed a certified letter to defense counsel last week (indiscernible) whenever it is that I filed the - - a new motion for a - - for disclosure, and then I asked for oral arguments to be denied.

The defendant in this case deliberately misled the Court into believing that the case had been transferred to Superior Court because the consolidation of the cases resulted in a case exceeding the jurisdictional limits of the Court. That was not true. There was one plaintiff seeking $2,000 in damages, Accident Assistance Centers of Arizona, Inc., and a separate plaintiff, Irwin Gary Roberts, seeking damages of $9,990. There was one common defendant, Patricia Ard, whose counterclaims also did not exceed the jurisdictional limits of the Court.

This Court could have awarded the maximum amount on each claim to each party, and not exceeded the jurisdictional limits of this Court. The defendant knew this but deliberately kept this from the Court.

How could the defendant's counsel deliberately mislead the Court into thinking that it no longer had jurisdiction? The defendant knowingly and willfully

changed the style of the case to make it appear there was one plaintiff, Irwin Gary Roberts, doing business as Accident Assistance Centers of Arizona, Inc., and what legal basis did they have for doing this when there were two separate legal plaintiffs? Absolutely none.

The court needs to inquire as to why they do this. Accident Assistance Centers of Arizona is an Arizona corporation in good standing, has been for approximately 10 years. Why did defendant's counsel do this when this brought to their attention on several - - when this was brought to their attentions on several occasions? Nothing. They deliberately continued to mislead the Court as to the exact legal status of the plaintiffs in this case.

I have some exhibits. Do you want me to approach the bench or just - -

THE COURT: If you have some, sure.

MR. ROBERTS: I'll; have to mail you copies of all of them. I - - okay.

THE COURT: Anything that you're going to give me, then she's going to have to have a copy of.

MR. ROBERTS: Well, I have it but I had - - I did it in such a short time I didn't have - -

THE COURT: No, that's just - - you know, you can't blindside somebody - -

MR. ROBERTS: Well, I'm not trying to blindside her.

She could look at it.

THE COURT: Well, I want you to exchange the exhibits.

MR. ROBERTS: This is a - - this is an Arizona - - this is a - - from the Corporate Commission that I'm a - - that my corporation is good standing. This is from the secretary of state that I don't have a trade name; that means I don't have a d.b.a. These are three documents. There was a case four years ago that Ms. Covell researched and found out. She did an investigation and found out about it, pertaining to Elaine (phonetic).

Then our Exhibit 4, 5 and 6, it shows that I brought it to their attention that there were two separate plaintiffs and one common defendant.

Okay. There is an additional misconduct by the defendant's counsel in this case as well. The defendant's counsel has deliberately failed to communicate this offers of settlement made by the plaintiff to the defendant. Why? Because defendant's counsel main goal in this case is not to represent the defendant but to cause the plaintiff as much grief as possible because they think he is infringing on the area of practice that only lawyers should be involved it.

I've got Exhibit 7, a letter from Ms. Covell to me, and I'll read it out loud to the Court.

MS. COVELL: Your Honor, this is not an evidentiary

hearing. This is an oral argument on summary judgment - -

MR. ROBERTS: Well, this is an oral argument. I have to finish my statement please.

"Dear Mr. Roberts, we are in receipt of your offer of settlement dated December 4, 2001, where you have to split the $2,000 six-figure (indiscernible), resulting in each of you taking $1,003. It would be unethical for us to continue an offer settlement. To do so would put us in the position of aiding and abetting in the unauthorized practice of law."

So she's not interested in a fight. She's interested in - -

(Simultaneous Conversation)

THE COURT: How odes this apply to your motion, Mr. Roberts?

MR. ROBERTS: Pardon me?

THE COURT: How is this relevant to the motion?

MR. ROBERTS: Because let me - - when I finish it's going to - - because I'm asking for sanctions based on - - I have to finish my whole story to see it's relevant.

THE COURT: Okay. Go ahead.

MR. ROBERTS: Okay. Okay. So plaintiff - - okay, the plaintiff, let's go. Okay.

"Defendant's counsel has misled the Court.

limit, so we awaited a determination as to what was gong to happen in this case. We found out the Court was going to allow the plaintiff to drop one of his claims, and when he did that - - that was in April, I believe - - and he then pretty soon after that filed another motion to exclude the use of witnesses and exhibits. We again filed our reply, a response to that motion, and this is where we are with that.

We didn't deliberately misled the Court on anything. We didn't mislead the Court as to the reason the case was transferred to Superior Court. That was our understanding of the reason it was transferred, due to the jurisdictional limits.

The only reason that we hadn't filed a disclosure statement is that the case was bouncing around all over the place. We weren't really sure where it was gong to end up. When we found out it was going to end up here, we again filed our motion, and we got ready to file our motion for summary judgment. The purpose of delaying in the first place was so we could file our motion for summary judgment. Once we found out where the case was going to land, we went ahead with that motion for summary judgment, and we filed it.

We also didn't mislead the Court as to the name of plaintiff's business or his trade name, or anything like that. We were just consolidating the two cases together. One was the plaintiff himself against the defendant, and the

other was his business against the defendant. We just combined the two when the cases got consolidated, and that's how that happened. We weren't trying to mislead anybody about the name of the plaintiff's business.

We're happy to file a disclosure statement, you know. We believe that out motion can dispose of this case, and we won't have to go through gathering all the evidence and witnesses to submit a disclosure statement. But if the Court rules that we need to do that, we will be happy to do that, Your Honor.

THE COURT: Thank you.

All Right. Do you have (indiscernible) rebuttal - -

MR. ROBERTS: Okay. Firstly, I just want to address the issues that they didn't know. They kept on saying that there's two separate plaintiffs, and on each of their pleadings they have Accident Assistance Centers doing business. I think, Your Honor, that apparently he didn't understand it, because the two amounts didn't add up. It didn't exceed the jurisdictional limit.

Now we'll go on. And they duped the Court, in my opinion. Okay. Firstly, the defendant's first count for summary judgment alleges fraud based upon the fact that the plaintiff allegedly told defendant Father, George - -

Rezesnick (phonetic) in a third party claim. He filed the same type of lien and the Superior Court judge, Judge Rogers (phonetic), declared that this type of a lien was invalid, and plaintiff has filed the same type of a lien in this case. This shows contempt for the prior court proceedings and warrants Rule 11 sanctions.

The defendant's final counterclaim pertains to the invalid the lien statute, A.R.S. 33-420. Although plaintiff has denominated basically a contract lien, we believe it operates to cloud title to defendant's real property. If he did not intend for this to affect real property, then why would he file - - why would he record this lien at the County Recorder's Office, the place where liens on real property are recorded.

Plaintiff - - the defendant wrote a letter to the plaintiff on November 7th requesting that the plaintiff remove this lien. He had not removed it within 20 days. Then only after we had appeared in the case did he remove this lien. Therefore, the plaintiff is entitled - - defendant is entitled to damages under the statute.

We believe because the plaintiff did not even file the statement of facts with his response to our motion for summary judgment, under Signer and under Tamsen, this case can be summarily dismissed. These facts that were listed in our statement of facts should be proven as true.

STATE OF ARIZONA)
) ss:
County of Maricopa)

I, Sally L. Cole, do swear and/or affirm that the foregoing is a true and accurate transcript to the best of our ability of proceedings in the matter of ROBERTS v. ARD, heard on June 20, 2002; as recorded on the tape provided to us; before the Court of Justice Lex Anderson.

_____

Sally L. Cole

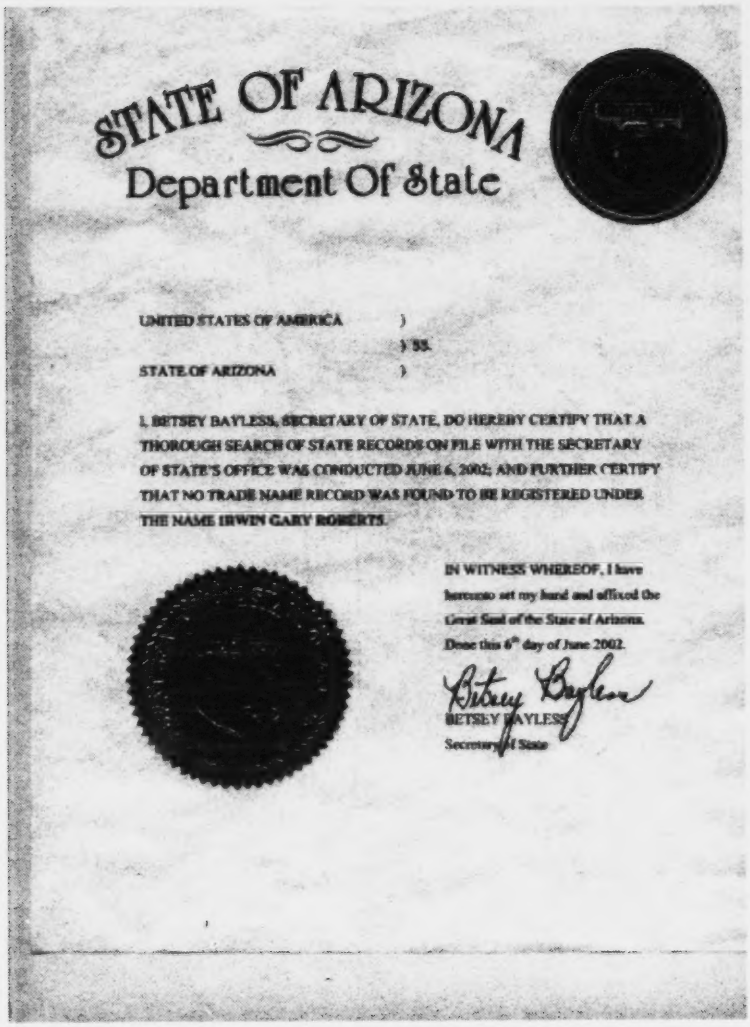
My commission expires:

_____

Karen Samcoe, Notary Public
February 27, 2003

SUBSCRIBED AND SWORN TO before me this _____ day of
_____, 2002.

EXHIBIT SOS



STATE OF ARIZONA
Department Of State

UNITED STATES OF AMERICA)
) SS.
STATE OF ARIZONA)

I, BETSEY BAYLESS, SECRETARY OF STATE, DO HEREBY CERTIFY THAT A THOROUGH SEARCH OF STATE RECORDS ON FILE WITH THE SECRETARY OF STATE'S OFFICE WAS CONDUCTED JUNE 6, 2002; AND FURTHER CERTIFY THAT NO TRADE NAME RECORD WAS FOUND TO BE REGISTERED UNDER THE NAME IRWIN GARY ROBERTS.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done this 6th day of June 2002.

BETSEY BAYLESS
Secretary of State

BEST AVAILABLE COPY

APPENDIX Q

Docket Number_____

In the Supreme Court of the United States

Irwin Gary Roberts,
Petitioner,
v.
Patricia Jeanne Ard,
Respondent

APPENDIX Q
TABLE OF CONTENTS

Exhibit G – Plaintiff's Motion for Rule 11 Sanctions.....page 200
Exhibit A Transcript of Proceedings....page 192
Exhibit Q –Affidavit of Rebecca L. Covell.....page206
Exhibit R – Petition for Order Requiring Judgment Debtor to Appear in Aide of Execution.....page 208
Exhibit X - Motion to Dismiss Appeal for Failure to File.....page 211
Exhibit W – Response to Appellant's Motion for Reconsideration.....page 214
Exhibit T2 – Response to Petition For Order Appellants Requiring Judgment Debtor Appear in Aide of Execution.....page 217
Exhibit J - Letter Written Dec. 1, 2001 offering $2600 total amount of check.....page 219
Exhibit ROL - Notice of Removal of Contract Lien.....pages 222-225
Exhibit APL - Arizona Doesn't Bar Non-Lawyers from Doing Legal Work.....page 229
Exhibit 3 – Complaint File Notes.....page 230
Exhibit 5 & 8.....page 233

EXHIBIT A

IN THE PEORIA JUSTICE COURT
MARICOPA COUNTY, ARIZONA

ROBERTS,		)
		)
	Plaintiff,	No. CV01-02761RA)
		)
vs.		)
		)
ARD,		)
		)
	Defendant.	)
		)

Peoria, Arizona
June 20, 2002

BEFORE JUSTICE LEX ANDERSON

APPEARANCES:
For the Plaintiff:
Irwin Gary Roberts

For the Defendant:
Rebecca Covell

Also Present:
David Granolidge

TRANSCRIPT OF PROCEEDINGS

limit, so we awaited a determination as to what was going to happen in this case. We found out the Court was gong to allow the plaintiff to drop one of this claims, and when he did that - - that was in April, I believe - - and he then pretty soon after that filed another motion to exclude the use of witnesses and exhibits. We again filed our reply, a response to that motion, and this is where we are with that.

We didn't deliberately mislead the Court on anything. We didn't mislead the Court as to the reason the case was transferred to Superior Court. That was our understanding of the reason it was transferred, due to the jurisdictional limits.

The only reason that we hadn't filed a disclosure statement is that the case was bouncing around all over the place. We weren't really sure where it was going to end up. When we found out it was gong to end up here, we again filed our motion, and we got ready to file our motion for summary judgment. The purpose of delaying in the first place was so we could file our motion for summary judgement. Once we found out where the case was going to land, we went ahead with that motion for summary judgment, and we have filed it.

We also didn't mislead the Court as to the name of plaintiff's business or his trade name, or anything like that. We were just consolidating the two cases together. One was the plaintiff himself against the defendant, and the

other was his business against the defendant. We just combined the two when the cases got consolidated, and that's how that happened. We weren't trying to mislead anybody about the name of the plaintiff's business.

We're happy to file a disclosure statement, you know. We believe that our motion can dispose of this case and we won't have to go through gathering all the evidence and witnesses to submit a disclosure statement. But if the Court rules that we need to do that, we will be happy to do that, Your Honor.

THE COURT: Thank you.

All right. Do you have (indiscernible) rebuttal - -

MR ROBERTS: I want a rebuttal.

THE COURT: Go ahead.

MR. ROBERTS: Okay. Firstly, I just want to address the issue that they didn't know. They kept on saying that there's two separate plaintiffs, and on each of their pleadings they have Accident Assistance Centers doing business. I think, Your Honor, that apparently he didn't understand it, because the two amounts didn't add up. It didn't exceed the jurisdictional limit.

Now we'll go on. And they duped the Court, in my opinion. Okay. Firstly, the defendant's first count for summary judgment alleges fraud based upon the fact that the plaintiff allegedly told defendant Father, George - -

a personal injury claim against a third party's insurance carrier. The plaintiff told defendant that he could represent her on her complaint, and he'll get up here and tell you that he told her that he could represent her, that he in fact represented her in a third party claim, and now he is suing to collect her for his fee - - suing her to collect his fees for that representation. Those facts are established, and they are not disputed.

We know, however, that under the Arizona statute relating to public adjusters that plaintiff is not authorized to settle third party claims. We also know from the Utah case and the Arizona cases that I cited in my motion and my reply that third party representation by a public adjuster is considered the unauthorized practice of law.

THE COURT: What case is that?

MS. COVELL: They're in my motion and my reply.

THE COURT: Is that the motion I received today?

MS. COVELL: Yes.

THE COURT: That case was done before - -

MR. ROBERTS: If I could get a chance to offer a rebuttal, or to - -

THE COURT: Let her finish, Mr. Roberts, and then we'll - -

MR. ROBERTS: Okay. I'm sorry. I'm sorry.

THE COURT: - - you'll be next after that. You'll

have the opportunity after.

MS. COVELL: In addition, Your Honor, we received the minute entry in a case that Mr. Roberts filed against the State of Arizona asking for a declaratory judgment that he authorized to represent third party claimants, and the Court through the Honorable Rebecca Albrecht held that insurance adjusters are not authorized to settle and negotiate third party insurance claims.

So for the plaintiff to tell the Defendant he could do that, and for him to actually do that for her was a fraud. He defrauded her into believing that he could represent her on a third party claim. And we know from the statutes and the case law that he can't do that.

Under the Consumer Fraud Act, he misrepresented his ability to settle this claim for her in connection with the sale of his services. Ms. Ard relied on that misrepresentation when she hired him, and as a result she was injured by his fraudulent representations.

It doesn't matter what he told her, it doesn't matter what he told her father, the fact is he represented to her that he could settle third party claims, and he actually did do that for her. This is fraudulent.

In addition, this alleged contract that they entered into is avoidable because it was procured by fraud, and Ms. Ard took the necessary steps to avoid the contract.

When she found out that he was not authorized to settle third party claims she fired him immediately, and she notified the Bar and the Department of Insurance that he had been engaging in this type of practice.

The contract is also void ab initio. It required plaintiff to engage in the unauthorized practice of law, and to violate the terms of his license as a pubic adjuster. The contract could not be performed without violating applicable law, and therefore it is illegal and void, meaning it had no legal force or effect from the very beginning. Therefore plaintiff cannot seek fees under a contract that does not exist.

The defendant is also seeking damages for slander, per se. Plaintiff admits that he published a slanderous statement about the defendant to Julie Woods, at USAA. Under the McClinton (phonetic) case, once the subject matter is determined to be slanderous per se, the only evidence the claimant must offer is that the subject matter was communicated, because falsity, malice, and special damages are presumed.

Statements accusing a person of committing a crime are slanderous per se, and the plaintiff accused Ms. Ard of committing extortion, and extortion is a crime under A.R.S. 13-1804.

The plaintiff stated in his response to our motion

Rezesnick (phonetic) in a third party claim. He filed the same type of lien and the Superior Court judge, Judge Rogers (phonetic), declared that this type of a lien was invalid, and the plaintiff has filed the same type of a lien in this case. This shows contempt for the prior court proceedings and warrants Rule 11 sanctions.

The defendant's final counterclaim pertains to the invalid the lien statute, A.R.S. 33-420. Although plaintiff has denominated basically a contract lien, we believe it operates to cloud title to defendant" real property. If he did not intend for this to affect real property, then why would he file — why would he record this lien at the County Recorder's Office, the place where liens on real property are recorded.

Plaintiff - - the defendant wrote a letter to the plaintiff on November 7th requesting that the plaintiff remove this lien. He had not removed it within 20 days. Then only after we had appeared in the case did he move this lien. Therefore, the plaintiff is entitled – defendant is entitled to damages under the statute. We believe because the plaintiff did not even file the statement of facts with his response to our motion for summary judgment, under Signer and under Tamsen, this case can be summarily dismissed. These facts that were listed in our statement of facts should be proven to be true.

STATE OF ARIZONA 41

)
) ss:
County of Maricopa)

I, Sally L. Cole, do swear and/or affirm that the foregoing is true and accurate transcript to the best of our ability of proceedings in the matter of ROBERTS v. ARD, heard on June 20, 2002; as recorded on the tape provided to us; before the Court of Justice Lex Anderson.

Sally L. Cole

My commission expires:

Karen Samcoe, Notary Public

February 27, 2003

SUBSCRIBED AND SWORN TO before me this 15th day of July, 2002.

EXHIBIT G
PEORIA JUSTICE COURT
7420 W. Cactus Rd., Peoria, AZ 84381 979-3234
Case No. CV01-02761RA

Plaintiff: Accident Assistance Center of
AZ, INC, an Arizona Corp.
IRWIN GARY ROBERTS
5629 S. Sailors Reef Rd.
Tempe, AZ 85283
(480) 491-4020
Counter Defendant

CV-2002-017209

Defendant: Patricia Ard
11768 W. Larkspur Dr.
El Mirage, AZ 85335

PLAINTIFF'S MOTION FOR RULE 11 SANCTIONS
ORAL ARGUMENT REQUESTED

Plaintiffs, Accident Assistance Center of AZ, Inc. and Irwin Gary Roberts, Court Defendant, hereby request that Rule 11 Sanctions be imposed on the defendant and her counsel for their misconduct in this case and as grounds there allege:

STATEMENT OF FACTS

This action was commenced when Accident Assistance Center of Arizona, Inc. filed a small claims action against Patricia Ard. Patricia Ard, had settled a previous accident claim on her own behalf, but she had been unable to find the party who ran into her in a subsequent accident to see if he had insurance so she could collect from her own insurance company on her uninsured motorist coverage. Her father told her about the plaintiff. The first time the defendant met with

the plaintiff, she refused the Plaintiff's services because she did not want to pay $125.00 per hour for the investigation required to be done by the plaintiff to initiate the first party claim She finally retained Accident Assistance Center of Arizona, Inc. to do an investigation to find the party who hit her in this newest accident so she could proceed with her first party claim against her own insurance company. She signed a contract with Accident Assistance Center, Inc. agreeing to pay $125.00 an hour for investigation time because she was unable to get this information after weeks of trying herself. Thereafter, the plaintiff set out to get the information so that first party claim could be processed.

Accident Assistance Center of Arizona, Inc. spent approximately sixteen hours investigating and was finally able to locate the party who had injured the defendant in this most recent accident. Accident Assistance Center of Arizona, Inc. filed notices with the defendant's own insurance carrier putting them on notice as to the first party claim. Subsequently, the plaintiff also found out that there was third party coverage and that the defendant did not have any uninsured motorist coverage. When the plaintiff told the defendant how much time and money had been expended in finding the party and subsequently discovering that there was third party coverage, Patricia Ard said she would not pay that amount she agreed to pay the plaintiff to investigate the first party claim. She further told that plaintiff that if the plaintiff did not agree to waive this investigation fee she would fire the plaintiff and cause the plaintiff a lot of trouble by telling everyone that he said he was a lawyer.

The Plaintiff refused to waive this fee because the plaintiff has done this work on the first party claim at the defendant's request and pursuant to the contract signed by the defendant. The plaintiff was lawfully permitted to do this investigation and receive a fee for doing so under A.R.S. 32-401 and 20-

321. Even Judge Albrecht in her minute entry stated the plaintiff was authorized to do first party claims. As a result of the plaintiff's refusal to waive its investigation fee, the defendant fired the plaintiff and wrote letters to everyone she could wrongfully accusing him of lying to her and deliberately trying to damage his personal and business reputation. Thereafter, the plaintiff, Irwin Gary Roberts, not Accident Assistance Center of Arizona, Inc., sued Patricia Ard individually for defamation in the civil division of the Justice Court because the defendant deliberately lied about what he had said in a effort to forgo a fee that Accident Assistance center of Arizona, Inc. was legally entitled to receive and that the defendant had contractually agreed to pay. These were two separate cases with two separate plaintiffs in two separate divisions of the Justice Court with one common defendant.

The defendant then moved to consolidate the two cases because although there were two separate plaintiffs, there was one common defendant and some common facts in both cases. In an effort to speed this matter along, both Accident Assistance Center of Arizona, Inc. and Irwin Gary Roberts, the two separate plaintiffs agreed to the consolidation. It was at this time that the defendant's counsel deliberately changed the style of the case without any valid or legal reason for doing so which mislead the court into believing that there was only one plaintiff and because the value of the two separate claims combined exceed $10,000, the Court no longer had jurisdiction of the case. The defendant's counsel did this by changing the style of the case to read "Irwin Gary Roberts dba Accident Assistance Center of Arizona, Inc." This deliberate act by counsel for the defendant caused this case to be wrongfully transferred to Superior Court thus delaying the resolution of this case. At the summary judgment hearing, the defendant's counsel could not only give no valid legal basis for changing the plaintiffs' style of the case, she could not

give any other valid reason for doing this either. This misstatement of the correct plaintiffs was repeatedly brought to the attention of the defendant's counsel, but they continued to perpetrate this fraud on the court and on the plaintiff. There can be no other reasonable conclusion drawn but that this was done in bad faith and therefore subject to the sanctions of Rule 11.

The defendant also committed other Rule 11 Violations in this case for the sole purpose of harassing the plaintiffs and misleading the court. The defendant has alleged in her pleadings that the plaintiff has committed the "unauthorized practice of law" when in fact there is no "unauthorized practice of law" statute in Arizona. This allegation was made without foundation merely to harass the plaintiff. Even the Attorney General admitted there is no unauthorized practice of law statute in Arizona that would prohibit the plaintiff individually from doing third party claims.

The defendant's counsel filed a claim against the plaintiff for allegedly filing a lien against her real property. The lien clearly says that it is a lien only against the proceeds of any insurance settlement. There is no legal description in the lien. This is just another example of the defendant's counsel misleading the court in an effort to harass the plaintiff.

Additionally, the plaintiff misrepresented the investigation the plaintiff did for the defendant in this case. The plaintiff had the right under law to investigate to gather the necessary information needed to file a first party claim, which is what he did in this case. The defendant's counsel kept deliberately misleading the court by stating that the plaintiff's claim in this matter is for investigating a third party claim.

MEMORANDUM IN SUPPORT OF MOTION FOR RULE 11 SANCTIONS

Rule 11 requires every person filing a pleading to make a reasonable investigation to determine that the pleading is filed in good faith, not for the purposes of delay, harassment or to drive up the costs of litigation. The pleadings filed by the defendant's counsel as outlined above clearly violated these provisions of Rule 11. If an honest mistake is made, a party would correct it as soon as possible. The plaintiff in this case notified the defendant's counsel about the correct legal status of the plaintiffs, but the defendant's counsel deliberately failed to correct it even though defendant's counsel knew it was wrong. This shows clear intent of a deliberate violation of Rule 11.

All of the other actions of misconduct as stated above are also evidence of deliberate and calculated pattern of misconduct in a manner to harass and intimidate the plaintiff as well. This pattern of deliberate misconduct is clear proof of the Rule 11 violations. The transcript of the defendant's counsel comments at the motion for summary judgment proving this misconduct has been ordered by the plaintiff and will be furnished to the court as soon as it is transcribed from the court tape which the court also has a copy of .

WHEREFORE, the plaintiff respectfully requests that this court send a clear message to the defendant and her counsel that this kind of unethical conduct will not be tolerated by this court. Appropriate sanctions should be significant fines, reimbursement to the plaintiff of all time and expenses attributed to this misconduct and striking of the defendant's pleadings.

Dated: June 25, 2002

Irwin Gary Roberts

Copy mailed to defendant's Attorney on June 25, 2002.

Rebecca L. Covell
Jennings, Stross & Salmon, P.L.C.
201 E. Washington Street 11th Floor
Phoenix, AZ 85004-2385

Irwin Gary Roberts

EXHIBIT Q

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
MinuteEntires@jsslaw.com

Attorneys for Defendant Patricia Ard

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTANCE CENTER OFAZ, INC.,
Plaintiff/ Judgment Debtor,

vs.

PATRICIA ARD,
Defendant/ Judgment Creditor.

AFFIDAVIT OF REBECCA L. COVELL
No. TJ 2002-005374

STATE OF ARIZONA)
) ss.
County of Maricopa)

REBECCA L. COVELL, being first duly sworn, deposes and says:

That she is the attorney of record for Defendant/ Judgment Creditor, Patricia Ard and is authorized to institute these proceedings.

That on or about August 12, 2002, Defendant/ Judgment Creditor recorded judgment in the above-referenced action and that judgment has not been reversed, vacated or set aside and there is presently an unpaid balance due of $15,041.00, plus interest.

That upon information and belief the Plaintiff/ Judgment Debtor, Irwin Gary

Roberts, has non-exempt property which he unjustly refuses to disclose and apply toward satisfaction of the judgment.

Rebecca L. Covell, Affiant

SUBSCRIBED and SWORN TO before me this 16th day of January, 2003.

My Commission Expires:
Notary Public

ORIGINAL of the foregoing was filed with the Clerk of the Court and a COPY of the foregoing was mailed this 16th day of January, 2003 to:

Irwin Gary Roberts
5629 S. Sailor Reef Road
Tempe, Arizona 85283
Plaintiff/Judgment Debtors

EXHIBIT R

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
MinuteEntires@jsslaw.com

Attorneys for Defendant Patricia Ard

IN THE SUPERIOR COURT
OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTANCE CENTER OF AZ, INC., Plaintiff/ Judgement Debtor,	No. TJ 2002-005374
vs. PATRICIA ARD, Defendant/ Judgment Creditor.	**PETITION FOR ORDER REQUIRING JUDGMENT DEBTOR TO APPEAR IN AIDE OF EXECUTION**

STATE OF ARIZONA)
) ss.
County of Maricopa)

Defendant/Judgment Creditor, Patricia Ard, by and through her attorneys undersigned, and pursuant to A.R.S. § 12-1631, et seq., respectfully petitions the Court as follows.

The undersigned is the attorney for the Defendant/Judgment Creditor and being first duly authorized makes this Petition for and on behalf of said Defendant/Judgment Creditor.

On August 12, 2002, a judgment was entered in favor of the Defendant/Judgment Creditor and against the Plaintiff/Judgment Debtor, Irwin Gary Roberts, said judgment being in the amount of $17,047 together with interest thereon at the maximum legal rate, accruing from the date of judgment until paid. The judgment has not been reversed, vacated or set aside. Other than the insurance company's re-issuance of a check to Defendant/Judgment Creditor in the amount of $2,006, no payments have been made thereon. Therefore a balance of $15,041 plus interest at the rate of ten percent (10%) per annum remains due and owing.

Petitioner is informed and believes that Plaintiff/ Judgment Debtor has non-exempt property which can be applied toward satisfaction of the judgment.

WHEREFORE, Petitioner prays for Orders asfollows: That the Plaintiff/Judgment Debtor be ordered to appear before this court on the

day certain and answer, under oath, questions concerning property of the Plaintiff/Judgment Debtor which may be the subject to execution and for further answer concerning their failure to apply such property to satisfy the judgment

That the Plaintiff/Judgment Debtor be required to produce for examination at the time and place fixed by the Court all of their books and records as set forth in said Order.

That proper proceedings thereon be had for the application of the property of the Plaintiff/Judgment Debtor until satisfaction of the judgment as provided upon return of a Writ of Execution.

DATED this 16th day of January, 2003.

JENNINGS, STROUSS & SALMON, P.L.C.

By
David Brnilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Attorneys for Defendant Patricia Ard

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before by Rebecca L. Covell this 16th day of January, 2003.

Teresa Taylor
Notary Public
My Commission Expires:
July 7 2006

EXHIBIT X

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911

Attorneys for Defendant/Counterclaimant/
Appellee Patricia Ard

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, a single individual; ACCIDENT ASSISTANCE CENTER OF AZ, INC., an Arizona corporation,	No. CV2002-017209
Plaintiffs/Counterdefendants/ Appellants,	**MOTION TO DISMISS APPEAL FOR FAILURE TO FILE APPELLANT'S MEMORANDUM**
vs. PATRICIA ARD	
Defendant/Counterclaimant/ Appellee.	

Appellee Patricia Ard hereby moves this Court for dismissal of this appeal because Appellants Irwin Gary Roberts and Accident Assistance Center of AZ, Inc. have failed to file their Appellate Memorandum.

Rule 15(a) of the Superior Court Rules of Civil Appellate Procedure requires Appellants to file their Memorandum within thirty days after filing the notice of appeal. *See* 17B A.R.S. Super. Ct. Civil Appellate Proc. Rules. Appellants filed their notice of appeal on August 16, 2002. [Exhibit A]. Thus, Appellants' Memorandum was due on September 16, 2002. No Memorandum has yet been filed.

Appellants' failure to timely file their Memorandum is grounds for dismissal of the appeal. *See* 17B A.R.S. Super. Ct. Civil Appellate Proc. Rules, Rule 15(c). Accordingly, Appellees respectfully request that this Court dismiss this appeal pursuant to Rule 15(c).

RESPECTFULLY SUBMITTED this 9th day of October, 2002/
JENNINGS, STROUSS & SALMON, P.L.C.

By
David Brnilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Attorneys for
Defendant/Counterclaimant/Appellee Ard
Copy of the foregoing hand-delivered on
this 9th day of October, 2002, to:

Michael D. Jones
Maricopa County Superior Court
Center Court Building - 10A
Phoenix, Arizona

Copy of the foregoing mailed on this
9th day of October, 2002, to:

Irwin Gary Roberts
ACCIDENT ASSISTANCE CENTERS
OF AZ, INC.
5629 S. Sailor's Reef Rd.
Tempe, AZ 85283

By

EXHIBIT W

David Brnilovich - 006308
Rebecca L. Covell - 021033
JENNINGS, STROUSS & SALMON, P.L.C.
A Professional Limited Liability Company
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Telephone: (602) 262-5911
Attorneys for Defendant/Counterclaimant/
Appellee Patricia Ard

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IRWIN GARY ROBERTS, dba ACCIDENT ASSISTANCE CENTER OF AZ, INC.,	No. CV2002-017209
Plaintiffs/Counterdefendants/ Appellants,	**RESPONSE TO APPELLANT'S MOTION FOR RECONSIDERATION**
vs. PATRICIA ARD, Defendant/Counterclaimant/ Appellee.	

Appellee Patrica Ard ("Patricia Ard") hereby responds to Appellants Irwin Gary Roberts and Accident Assistance Center of AZ, Inc.'s ("Appellants") Motion for Reconsideration of the Court's ruling, wherein the Court dismissed the appeal due to Appellants' failure to file their Appellate Memorandum.

Appellants have raised no new issues of fact or law with regard to the prior court's ruling. Any and all

substantive and/or procedural issues in this case were raised in the lower court, and summary judgment was granted in favor of Patricia Ard. Once the case was transferred to this Court, Appellants failed to file their Appellate Memorandum, as required by Rule 13(a) of the Arizona Superior Court Rules of Civil Appellate Procedure. They admit that they filed to comply with the Rules. This Court correctly determined that such failure warranted dismissal of the appeal under Rule 15(a), Arizona Superior Court
Rules of Civil Appellate Procedure. Appellants have raised no new issues of fact or law in this matter, let alone facts or law that justify reconsideration of the Court's prior minute entry granting Patricia Ard's Motion to Dismiss the Appeal.

Therefore, Patricia Ard respectfully requests that this Court deny Appellants' Motion for Reconsideration, and affirm its prior ruling dismissing the appeal of this matter.

RESPECTFULLY SUBMITTED this 27th day of November, 2002.

JENNINGS, STROUSS & SALMON, P.L.C.

By
David Brnilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
Attorneys for
Defendant/Counterclaimant/Appellee Ard

Copy of the foregoing hand-delivered on
this 27th day of November, 2002, to:

Hon. Michael D. Jones
Maricopa County Superior Court
Center Court Building - 10A
Phoenix Arizona

Copy of the foregoing mailed on this 27th day
of November, 2002, to:

Irwin Gary Roberts
ACCIDENT ASSISTANCE CENTERS
OF AZ, INC.
5629 S. Sailor's Reef Rd.
Tempe, AZ 85283

By

EXHIBIT T2

Irwin Gary Roberts, Pro Per
5629 S. Sailors Reef Rd.
Tempe, AZ 85283

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

Irwin Gary Roberts, a single man,
Accident Assistance Centers of Az., Inc.
CIV-TJ2002-005374
The Honorable Jeffery Woodburn
An Arizona Corporation
Plaintiff Counter Defendants,

Response to Petition For Order Requiring Judgment Debtor To Appear In Aide Of Execution

Appellants
Judgment Debtor

VS.
Patricia Ard, Defendant, Counter Claimant
Appellee, Judgment Creditor

Plaintiff states the heading of defense counsel is wrong and as they corrected it to the Court Of Appeals. The correct heading is the correct one as stated above, therefore, the corporation would be responsible for this debt.

The defendant admits in their motion that they received $2,006 from an insurance company wh8ich is U.S.A.A., therefore the Plaintiff owes the defendant only $13,035 as the defendant can't be paid twice. The defendants attorneys are officers of the court and should correct the heading and the

monies due otherwise Plaintiff will have to bring a Rule 60 Motion or on his Petition of Review To The Supreme Court it will be straightened out, or The Federal Courts will straighten it out. The Plaintiff submits his affidavit under oath and asks for a stay of the proceeding of Enforcement Judgment.

Respectfully Submitted,

Irwin Gary Roberts

ORIGINAL of the foregoing was filed
with the Clerk of the Court and a Copy on January 23, 2003
of the foregoing was mailed on January 24, 2003 to
David Bmilovich
Rebecca L. Covell
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385
And a copy hand delivered to Judge Jeffery Woodburn at the
Superior Court of Arizona,
Maricopa County, Phoenix, Arizona January 23, 2003

Irwin Gary Roberts

January 23, 2003

Copy hand delivered Old Court House
Washington Street Rm 24

Copy Patricia Ard
11768 W. Larkspur Dr.
El Mirage, AZ 8533

EXHIBIT J

Letter written December 1, 2001
offering $2,006 total amount of CHECK. Defense counselor told justice court in pleadings they never received the letter.

Dear Ms. Covell:
Needless to say I am quite shocked at the contents of your letter dated December 5, 2001. Surely you must have told Patricia Ard before you agreed to represent her that you could not settle her case for her because to do so would be unethical. I'm sure Patricia Ard would gladly take $2,000 right now to settler her case, but according to your letter, you could not settle the case for that. It has always been my understanding that a lawyer should act in their client's best interest or they should withdraw. If you have no authority to settler her case for her because it is unethical, how can that be acting in your client's best interest not to accept and offer that is 99.9% of the claim? You would have to be the first lawyer in history that could not accept such an offer.

If it remains your position that you cannot settler her case for her, then I think it was incumbent upon you to inform her of that from the start. Surely no ethical attorney would take a case without advising their client that they could not accept a 99.9% settlement offer due to ethical constraints. I think that any attorney who could not accept an offer of settlement for their client that was 99.9% of the amount in controversy would in all likelihood be guilty of malpractice.

I'm sure that you have shown Ms. Ard the current Arizona statute dealing with their unauthorized practice of law. I'm sure she would lie to see a copy of it so she can see what legal authority you are relying on. Just in case you are unable to find the statute because it doesn't exist, maybe you can show her a case that has been decided within the last ten years in

Arizona that specifically holds that my representing her in an attempt to settler her case is the unauthorized practice of law. Surely you are basing you legal decision in this case on either statutory or case law. If you will send me a copy of the current unauthorized practice of law statute that is in effect and a current case that supports your position that my representing her is the unauthorized practice of law, I will give her the entire $2,003.oo and drop any and all claims I have against her. She of course would have to drop any claims she has against me as well and this matter come to and end.

In the previous trial court case you cited that I was involved in, did you tell Ms. Ard that the court held that I could sue on my contract for my fee? The court did not hold that I was practicing law without a license. It was only the lien that was not upheld. And did you tell her that that case settled and I got a lot of my fee out it?

Is it possible that you have some hidden agenda other then securing the vest settlement that you can for your client as a lawyer is also ethically obligated to do? At this point in time that appears to be the case. You have the opportunity to get the entire $2,003.oo for your client. All you have to do is prove your position buy citing current statutory and case law. If you can't do that to secure a 100% settlement for your client then something is terribly wrong isn't it? How sound can your legal position be? Maybe you should tell your client what your real agenda is in representing her in this matter.
For centuries lawyers have told their clients how much they could get them out of their case just to get them signed up, yet I am unaware of any case where the lawyer has promised his or client that they would pay the difference out of their pocket if they didn't get as much as they said they could for their client's best interest and I intend to take it to them. It will be interesting to see how you defend your position to the public.

Do think the pubic will actually believe that a lawyer should not settle a case for 99.9% of the amount in controversy because an alleged ethical consideration for which there is no statutory or case law to back that position? The truth will have to come out and I don't think it will case you in a good light.

I made a fair offer to your client. You are the one who wants to escalate it. If that's what you really want, then I will oblige you. It's your call

Respectfully submitted,

Gary Roberts
5629 S. Sailor's Reef Rd.
Tempe, Arizona 85283
December 7, 2001
Faxed to 602-253-3255
and mailed to
Rebecca Covell
Jennings, Strouss, & Salmon
The Collier Center, 11th Floor
201 East Washington Street
Phoenix, Arizona 85004-2385

EXHIBIT ROL

When recorded mail to:
Gary Roberts
5609 S. Smith Rd
Tempe AZ 85283

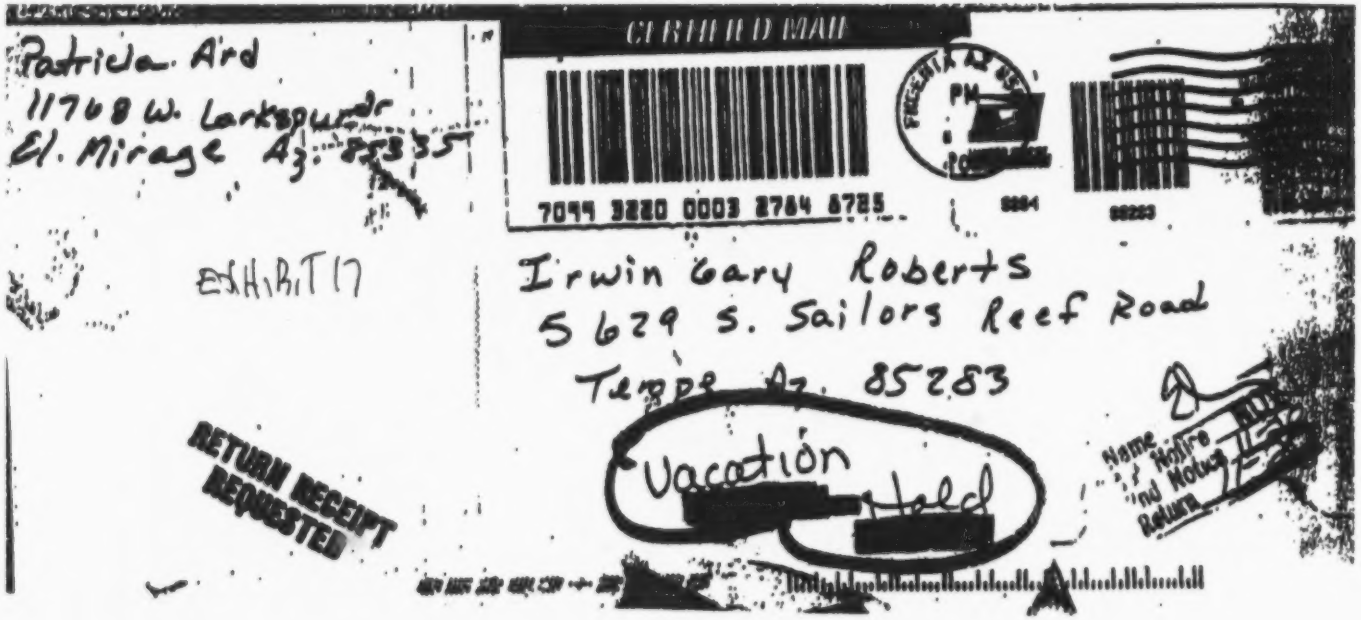
OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2001-1141741 12/04/01 13:58
1 OF 1

CAPTION HEADING: _____

DO NOT REMOVE

This [illegible]

MARICOPA COUNTY
1871
ARIZONA


CERTIFIED MAIL
7099 3220 0003 2764 8785
Patricia Aird
11768 W. Larkspur Dr.
El Mirage Az. 85335
EXHIBIT 17
Irwin Gary Roberts
5629 S. Sailors Reef Road
Tempe Az. 85283
Vacation Hold
RETURN RECEIPT REQUESTED

The Defendant Ard waisted the Courts time as to the issue of an invalid lien that Defendant said was put onto real property. The Plaintiff removed the lien December 4, 2001, see Exhibit 16. The Plaintiff was on holiday, see envelope 11/25 Exhibit 17. Plaintiff received notice November 25, 2001. The Plaintiff therefore complied with the law as he removed the lien in 9 days where the law stated it has to be removed in 20 days.

The Defendant never enclosed the written signature when Defendant received registered receipt. Look at time sheet of attorneys for the Defendant as they had notice that written receipt had not come back from a call from Defendant Ard. The Plaintiff submits deed of house that Plaintiff's own Exhibit 18. It states without liens or encumbrances. This was a 1st party claim, see letters to Liberty Mutual, Exhibit 11 & 2. Plaintiff put a lien on the proceeds of the settlement not on the real property, Exhibit 14. The Plaintiff did not violate ARS 33-420, it only applies to real property.

Berenter vs Gallahger 173 H275 839 P2D

The Appeals Court held and adjuster securing the insurance proceeds may be entitled to a lien in the proceeds. So john and Jean Apple Baum Insurance law and practice 334 170 (1970). The Appellate Court said on insured partial assignment of insurance proceeds on independent adjuster representing the insured is valid and enforceable. Home Insurance vs. Gigi Fashions Inc. 267R Supp 958 1967 (D.N.5)

The Court $5. An attorney or an adjuster may be entitled to a lien on the proceeds. The court clearly said an adjuster may file a lien on the proceeds and did not distinguish between 1st and 3rd party claims, see Exhibit 5. The Plaintiff's contract was not void abinitio but valid as the Defendant signed the corporation contract, see Exhibit C. The Plaintiff could file a lien in the proceeds and Plaintiff is entitled to $2006 for reasonable services rendered.

The Defendant committed fraud on this Court and waisted the Courts time as the lien was removed in a timely manner. The Plaintiff did nave the right to file this lien pursuant to the signed signature of the Defendant on the contract of the Defendant. A summary judgment can only be granted by the Court when there is no issue of fact to be determined at trial.

Maricopa County Recorder
2001-014399 - 2/25/2001

NOTICE OF REMOVAL OF CONTRACT LIEN

My client Patricia Jeanne Ard
Address of Client- 11768 W. Larkspur, El Mirage, AZ 85335
Date of Signing this Contract 1/24/2001
Date of Loss 1/16/2001
Amount Due $2,006 - 16 hours at $125 per hour
plus Police Report $6.00
The removal of this lien does not prelude Irwin Gary Roberts from suing Patricia Jeanne Ard in a Civil Court or prejudice Irwin Gary Roberts in any court proceedings currently in progress.
I, Irwin Gary Roberts am the claimant who filed this lien and wish to remove the lien as of December 4, 2001.

Respectfully Yours,

Irwin Gary Roberts
5629 S. Sailors Reef Rd.
Tempe, AZ 85283

U.S.A.A. claim # 78851
Adjuster _____
P.O. Box 35718, Colorado Springs
Colorado, 80935-37

RECORD AS IS

19991163721

ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT TO SURVIVORSHIP

ESCROW NO. 209-908-1245682

/LEE JR. /JEANNE JERRY ARD, and PATRICIA ARD, husband and wife, each for himself or herself and jointly, but not one for the other, state that the undersigned have offered to purchase the real property situate in Maricopa County described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

That each of the undersigned individually and jointly as such Grantees hereby declare that it is their intention to accept such conveyance as community property with right of survivorship and not as joint tenants with right of survivorship and not as tenants in common, and to acquire any interest in said real property under said deed as community property with right of survivorship, and not as joint tenants with right to survivorship and not as tenants in common.

That by the execution and delivery to the Escrow Agent of this "Acceptance of Community Property with Right of Survivorship" the undersigned intend to evidence their acceptance of said deed as community property with right of survivorship, and hereby direct and authorize the Escrow Agent to attach this "Acceptance of Community Property with Right of Survivorship" to such deed upon its execution and delivery and to record this "Acceptance of Community Property with Right of Survivorship" together with such deed.

Dated: December 17, 1999

JERRY ARD, JR.
LEE

PATRICIA ARD
/JEANNE

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged and executed before me this 29th day of Dec. 1999 by
/LEE
JERRY ARD JR. and PATRICIA ARD
/JEANNE

My Commission Expires:

Notary Public

EXHIBIT APL
ARIZONA DOESN'T BAR NON-LAWYERS FROM DOING LEGAL WORK

Arizona has had no statutes forbidding the unauthorized practice of law since 1984, when the one it had was automatically repealed by the legislature.

This means that non-lawyers probably cannot be prevented from doing much of the legal work in this state – work that before could have been done only by lawyers.

Unauthorized-practice statutes are the means by which many trades and professions protect their monopolies, doctors, dentists, barbers, cosmetologists and the members of a few dozen other occupational groups legally exclude unlicensed people from offering the services they provide.

If you cut your own child's hair, for example, you can be prosecuted for engaging in the unauthorized practice of barbering.

But for now, at least, it appears that non-lawyers who provide legal services to others cannot be punished.

Courts, of course, have independent authority to determine who may practice in them. And they continue to exclude those who do not have licenses to practice law – except individuals representing themselves, a right citizens always have had.

A considerable volume of legal work, however, does not require court involvement. It even is possible for people to obtain non-lawyer assistance in drafting court documents for the purpose of representing themselves in the courts.

Many Americans cannot or will not pay the cost of lawyers services. Often, they are too expensive.

Lawyers contend, with some justification, that their training and experience enable them to provide better service than non-lawyers.

But that misses the point. What lawyers are saying is that the public must choose between first-class service and no service at all.

Exhibit 3

COMPLAINT FILE NOTES

D. - Diary File To Msg - Phone Message
110 - 3rd Party Closing
Cmp. - Complaint PC. - Phone Call
115 - 1st Party Closing
Co. - Company 101 - Opening Ltr to Com
116 - Status Letter Cmp
Agy. - Agency 106 - Opening Ltr to Cmp
117 - More Info Needed
LS. - Letter sent 108 - Satisfactory Close
113 - 3rd Party Closing

DATE STAMPED: 6/14/01
CMP NAME: State Bar of AZ by Johansen, Francis
ADDRESS:
PHONE # WORK: 252-4802 HOME:

INVESTIGATOR: Alonzo

CARRIER:
ADDRESS:
PHONE:
CONTACT:

TARGET: Irwin Gary Roberts
ADDRESS:
PHONE:

DATE RECEIVED: 6/18/01

COMPLAINT SUMMARY

Francis Johansen, UPL Attorney for the State Bart of AZ, alleges that adjuster Irwin Gary Roberts is purporting himself to be an attorney in the state of Arizona.

ACTION TAKEN:

6/18/01 Received and processed complaint for setup.

Reviewed documentation supplied by Johansen; noted a "Special Power of Attorney" authorized form signed by Roberts's client Patricia Ard. The heading of the form includes license numbers for both Roberts and his company, Accident Assistance Centers of AZ. There appears to a page missing form the authorization. The complaint also includes a letter from Roberts to Ard, which clearly shows that he was investigating Ard's claim.

6/20/01 Revised 101 letter typed and mailed to Roberts.

6/22/01 Pc from Roberts; states that he did not adjust the claim in question; states that the clt. Contacted him after the accident and wanted him to investigate the party at fault insurance company. States he investigated as requested and submitted a bill to the clt. States that he made no effort to settle the claim. States is gong on vacation and won't be back until 7/15/01. Response deadline extended to 7/20/01.

7/10/01 Received response for Roberts. States did not adjust a 3rd party claim for Ard___attorney advised him that he could use the title, Corporate Counsel on his business card.

8/3/01 Pc to insured's carrier USSA 800 633-0942; spoke to Sherry Brust (CSR) states damages losses have been paid to Ard. Medical has not been settled. Left voice mail message for claim handler Julie Woods (USAA) to call ASAP.
Received call from claim handler Julie Woods; states that although she has documentation that Roberts was representing Ard, she has no direct evidence that would establish that Roberts is negotiated the claim. (no demand letter, etc.) Woods states that she will fax some documentation as soon as possible.

8/10/01 Received more documentation from USAA; No evidence to establish that Roberts negotiated settlement of Ard's claim.

8/22/01 Pc to Roberts; advised Roberts of need to document that he is aware that it is unlawful to adjust 3rd party claims, and that he agrees to change his business card by deleting "Corporate Counsel".

9/21/01 PC to Roberts; left message for him to call ASAP.

Return call from Roberts; states that he has been for the past few weeks and will get the info to the ADOI by late next week.

10/18/01 PC to Roberts. Message left on Voice mail.

10/23/01 PC from Roberts; states that he disagrees with ADOI's position relative to adjusting third party claims and has filed a suit against the ADOI for hindering his livelihood and can no longer discuss the matter. When asked to provide copies of all third party claims since September of 2000, Roberts

refused and indicated he would only comply by subpoena. E-mailed GLM to advise how to proceed.

Received copy of civil suit which is basically a request for Declaratory Relief.

10/29/01

10/31/01 Reviewed Roberts license file and learned that he was initially licensed in 1990; his license expired after four years and he had to re-apply in 95. No other irregularities found in either file.

11/7/2001 File reviewed by AVS. Awaiting response to subpoena for Roberts 3rd party claim files.

11/8/2001 File reviewed by AVS.

Exhibit 5 & 8

The Director's regulatory bulletin which spawned all these complaints from the AZ State Bar and various insurers does not say that a licensed adjuster can or can not adjust 3rd party claims. It merely spells out what an adjuster is and explains that the statute does not address 3rd party claims. The ADOI's only concern would be what the adjuster represented to the client what his authority is under the license. If the adjuster tells the client that he is licensed to adjust those types of losses, that would be misrepresentation. If the fact that the adjuster is licensed becomes a deciding factor to employ the adjuster to handle a 3rd party claim, this may also be a concern of the ADOI. We do not want anyone to believe that they have the protection of a regulator agency should something go awry with the handling of a 3rd party claim when in fact there is no protection as the ADOI does not license adjusters to handle 3rd party claims.

11/23/01 **ADOI response to motion for protective order and injunctive relief.**

5/13/2002 **Received copy of 5-8-02 minute entry dismissing Robert's case against the ADOI. Reviewed file again. Robert's client actually filed a complaint with the state bar alleging that he represented himself as an attorney and told her that if anyone wanted to talk to her about he claim that she should tell them to contact her attorney. There is no allegation that he misrepresented the authority of his adjuster's license permits him to handle 3rd party claims. Case closed.**

CLOSING DATE: **5-13-02**

RECOVERY **0**